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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,058	07/31/2003	Don Rutledge Day	AUS920030437US1	3505
7590 DILLON & YUDELL LLP 8911 NORTH CAPITAL OF TEXAS HIGHWAY SUITE 2110 AUSTIN, TX 78759			EXAMINER WHIPPLE, BRIAN P	
			ART UNIT 2152	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS		MAIL DATE 02/01/2007	DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/631,058	DAY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Brian P. Whipple	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 31 July 2003.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-21 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-21 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>See Continuation Sheet</u>	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :07/31/2003, 03/26/2004, and 04/12/2004.

## DETAILED ACTION

1. Claims 1-21 are pending in this application and presented for examination.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 15-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The article of manufacture may be interpreted as any medium from which a computer system can read and which is suitable for storing instructions (see [0026], ln. 13-15 of the instant specification). This includes non-statutory mediums such as paper and transmission media including electromagnetic, acoustic, or light waves (see [0026], ln. 18-20 of the instant specification). The machine-readable medium as described may be interpreted as failing to fall into one of the four statutory classes of invention: process, machine, manufacture, and composition of matter.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1-2, 4-6, 8-9, 11-13, 15-16, and 18-20 are rejected under 35 U.S.C. 102(a) as being anticipated by QuikTxT, FAQs/How-To, 10/06/2002, Cellcom (QuikTxT).

6. As to claim 1, QuikTxT discloses a method in a data processing system for managing a messaging session (Pg. 1, **What is Quik|TxT?**, ln. 2-3), said method comprising the steps of:

receiving a plurality of characters from a message sender within the messaging session, wherein the plurality of characters forms a portion of a message within the messaging session (Pg. 2, **Message Length**, ln. 1-4; a message is split into multiple messages and sent as a plurality of parts);

determining that the number of characters of the received plurality of characters is at least equal to a preset number of characters (Pg. 2, **Message Length**, ln. 1-4; the preset number of characters is 160); and

transmitting the plurality of characters to a message recipient within the messaging session (Pg. 1, **Who can I send Quik|TxT messages to?**, ln. 1-2).

7. As to claim 8, the claim is rejected for the same reasons as claim 1 above. Additionally, QuikTxT discloses a data processing system for managing a messaging session (Pg. 1, **What is Quik|TxT?**, ln. 2-3; messages are sent with a Cellcom digital phone).

8. As to claim 15, the claim is rejected for the same reasons as claim 1 above. Additionally, QuikTxT discloses an article of manufacture comprising machine-readable medium including program logic embedded therein that causes control circuitry to perform the steps (Pg. 1, **What is Quik|TxT?**, ln. 2-3; messages are sent with a Cellcom digital phone; it is inherent that a phone performing the steps possesses an article of manufacture comprising machine-readable medium including program logic embedded therein that causes control circuitry to perform the steps).
9. As to claims 2, 9, and 16, QuikTxT discloses transmitting an indication that the transmitted plurality of characters forms only a portion of the message (Pg. 2, **Message Length**, ln. 1-4; indication is given by labeling the plurality of parts as "part 1 of 3, part 2 of 3, ect. [sic]").
10. As to claims 4, 11, and 18, QuikTxT discloses concatenating another plurality of characters that forms a portion of the message to the transmitted plurality of characters, thereby creating concatenated characters (Pg. 2, **Message Length**, ln. 1-4; messages over a predefined length are split into a plurality of parts and can be received as "part 1 of 3, part 2 of 3, ect. [sic]", which equates to concatenating another plurality of characters to the transmitted plurality of characters); and transmitting the concatenated characters to the message recipient within the messaging session (Pg. 2, **Message Length**, ln. 1-4).

11. As to claims 5, 12, and 19, QuikTxT discloses determining that the number of characters of the another plurality of characters is at least equal to a preset number of characters (Pg. 2, **Message Length**, ln. 1-4; any message over 160 characters will split into multiple messages, therefore a message over 320 characters will split into more than two parts, as the second part would be over 160 characters, which equates to determining that the number of characters of the another plurality of characters is at least equal to a preset number of characters); and

wherein the step of concatenating is performed once it is determined that the number of characters of the another plurality of characters is at least equal to the preset number of characters (Pg. 2, **Message Length**, ln. 1-4; messages over a predefined length are split into more than two parts and can be received as "part 1 of 3, part 2 of 3, ect. [sic]", which equates to concatenating another plurality of characters possessing a number of characters at least equal to a preset number of characters).

12. As to claims 6, 13, and 20, QuikTxT discloses determining that the end of the message is not contained within the plurality of characters (Pg. 2, **Message Length**, ln. 1-4; messages over a predefined length are split into a plurality of parts, based on the end of the message not being contained in a plurality of characters being equal to or less than 160 characters).

Art Unit: 2152

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

14. Claims 3, 10, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over QuikTxT as applied to claims 1-2, 8-9, and 15-16 above, in view of Malik et al. (Malik), U.S. Publication No. 2005/0044144 A1.

15. As to claims 3, 10, and 17, QuikTxT does not disclose the indication is a predefined character appended to the plurality of characters.

However, Malik does disclose the indication is a predefined character appended to the plurality of characters ([0053], ln. 1-20).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of QuikTxT by utilizing a predefined character appended to a plurality of characters as an indication as taught by Malik in order to easily and briefly identify additional information relevant in a messaging environment.

16. Claims 7, 14, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over QuikTxT as applied to claims 1, 8, and 15 above, in view of Horvitz et al. (Horvitz), U.S. Publication No. 2003/0046421 A1.

17. As to claims 7, 14, and 21, QuikTxT does not disclose the message sender defines the preset number of characters.

However, Horvitz does disclose the message sender ([0089], ln. 1-8) defines the preset number of characters ([0086], ln. 16-23; "number of characters sent").

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of QuikTxT by allowing the message sender to define the preset number of characters as taught by Horvitz in order to facilitate personalization according to user desires (Horvitz, Abstract, ln. 10-12).

### ***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Adler et al., U.S. Patent No. 6,157,630 discloses an edit button for predefining a number of characters in a message to be sent.

Halvorson, U.S. Patent No. 6,208,859 B1 discloses splitting a message into multiple message segments such that each message segment does not exceed a maximum size parameter.

Kim et al., U.S. Publication No. 2002/0058522 A1 discloses dividing a message into several short messages if the length exceeds 80 bytes.

Bennett et al., U.S. Publication No. 2002/0112014 A1 discloses dividing a message into multiple messages, such as 1 of 2 and 2 of 2, if a message recipient has a different maximum message length than a message sender.

Chan et al., U.S. Patent No. 6,697,844 B1 discloses appending a character as an indication.

Chava et al., U.S. Publication No. 2004/0266462 A1 discloses splitting a message into multiple messages due to differences in the length of messages supported by networks.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Whipple whose telephone number is (571)270-1244. The examiner can normally be reached on Mon-Thu (7:30 to 5), Fri (8:30 to 5 or day off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571)272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BPW

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1/28/07



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